SINGLE BENCH

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(3)

P.R. No. 1460/06
Presented by Shri Majloom Husain
dated 15/05/06

IN THE HIGH COURT OF CHHATTISGARH, AT BILASPUR (C.G.)

Civil Revision No.: - 71 / 2006. (S.B.)

APPLICANT : - **Majloom Husain,** Age-56 Yrs.
(Defendant) S/O Hussaini Bhai,
R/O –Khaparganj, Bilaspur,
District:- Bilaspur, (C.G.)

: V E R S U S :

RESPONDENT : - **Chaturbhuj Murrarka,**
(Plaintiff) Age-64 Yrs.
S/O Late Mahvir Prasad Murrarka,
R/O: - Gayatri Mandir Road,
Vinoba Nagar,Bilaspur
District: - Bilaspur, (C.G.)

-: MEMO OF REVISION UNDER SECTION 23 (E) OF C.G ACCOMMODATION CONTROL ACT : -

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक : Civil Rev. 71 सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	21.6.2006 Shri Ajad Siddiqui, counsel for the applicant. Shri K.A. Ansari, Sr. Advocate assisted by Shri A.P. Dubey, counsel for the respondent. Heard on admission. This is a revision filed u/s 23(E) of the C.G. Accommodation Control Act against the order dated 21.3.2006 passed by the Rent Controlling Authority, Bilaspur in pending case No.5-A/90(6)/2003-04 whereby an application filed by the applicant/ tenant for stay of the proceedings of the aforesaid case has been dismissed. Learned counsel for the applicant submits that a civil suit regarding ownership of the tenanted premises is pending between Smt.Kadeera Bi & another and Chaturbhuj Murarka, the present respondent, in which it has to be decided as to who is the owner of the tenanted premises and unless the ownership of the tenanted premises is determined, the proceeding u/s 23(A) of the aforesaid Act would not be maintainable before the Rent Controlling Authority (for short "R.C.A"). He further submits that both the proceedings in simultaneous manner cannot be drawn and for this reason an application for stay of further proceedings before the R.C.A. was filed, which was dismissed by the R.C.A. Learned counsel argues that under the provisions of Section 10 of the Code of Civil Procedure, the subsequent proceeding before the R.C.A. should have been stayed.	

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(36)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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Section 10 of the C.P.C. provides that no court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between the parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court.

One of the essential features of section 10 CPC is that the proceedings before the two courts must be the suits and unless the proceedings are suits, the subsequent proceeding cannot be stayed.

In the present case, admittedly the proceeding before the R.C.A. is not a suit, therefore, it cannot be stayed within the purview of section 10 of C.P.C. and the Rent Controlling Authority has rightly refused to stay the further proceedings.

There is no illegality in the order passed by the R.C.A. I am not inclined to interfere with the said order. The revision has no merits and the same is dismissed. However, the question of maintainability of the proceedings before the R.C.A. on account of pendency of suit before the civil court for declaration of title between the two parties i.e., between the present respondent and Smt. Kadeera Bi & another shall be considered and decided by the R.C.A. and necessary orders shall be passed on this point also.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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Rao	At this stage, learned counsel for the applicant submits that the final orders before the R.C.A. are going to be passed on 22nd of June 2006, therefore, the certified copy of the order be given today. The prayer is allowed. Certified Copy of this order be given today itself. Sd/- Sunil Kumar Sinha Judge	

[पीछे देखिये

21/6/06